



General Assembly

January Session, 2001

Amendment

LCO No. 7026

Offered by:

SEN. COLEMAN, 2nd Dist.

SEN. HANDLEY, 4th Dist.

SEN. HARP, 10th Dist.

SEN. LOONEY, 11th Dist.

SEN. FINCH, 22nd Dist.

SEN. PENN, 23rd Dist.

SEN. DAILY, 33rd Dist.

To: Subst. Senate Bill No. 1161

File No. 581

Cal. No. 385

"AN ACT CONCERNING THE DEATH PENALTY."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (h) of section 53a-46a of the general statutes is
4 repealed and the following is substituted in lieu thereof:

5 (h) The court shall not impose the sentence of death on the
6 defendant if the jury or, if there is no jury, the court finds by a special
7 verdict, as provided in subsection (e), that at the time of the offense (1)
8 [he] the defendant was under the age of eighteen years, or (2) the
9 defendant was a person with mental retardation, as defined in section
10 1-1g, or [(2) his] (3) the defendant's mental capacity was significantly
11 impaired or [his] the defendant's ability to conform [his] the
12 defendant's conduct to the requirements of law was significantly
13 impaired but not so impaired in either case as to constitute a defense to

14 prosecution, or [(3) he] (4) the defendant was criminally liable under
15 sections 53a-8, 53a-9 and 53a-10 for the offense, which was committed
16 by another, but [his] the defendant's participation in such offense was
17 relatively minor, although not so minor as to constitute a defense to
18 prosecution, or [(4) he] (5) the defendant could not reasonably have
19 foreseen that [his] the defendant's conduct in the course of commission
20 of the offense of which [he] the defendant was convicted would cause,
21 or would create a grave risk of causing, death to another person.

22 Sec. 2. Section 53a-54b of the general statutes is repealed and the
23 following is substituted in lieu thereof:

24 A person is guilty of a capital felony who is convicted of any of the
25 following: (1) Murder of a member of the Division of State Police
26 within the Department of Public Safety or of any local police
27 department, a chief inspector or inspector in the Division of Criminal
28 Justice, a state marshal who is exercising authority granted under any
29 provision of the general statutes, a judicial marshal in performance of
30 the duties of a judicial marshal, a constable who performs criminal law
31 enforcement duties, a special policeman appointed under section 29-
32 18, an employee of the Department of Correction or a person
33 providing services on behalf of said department when such employee
34 or person is acting within the scope of [his] such employee's or
35 person's employment or duties in a correctional institution or facility
36 and the actor is confined in such institution or facility, or any fireman,
37 while such victim was acting within the scope of [his] such victim's
38 duties; (2) murder committed by a defendant who is hired to commit
39 the same for pecuniary gain or murder committed by one who is hired
40 by the defendant to commit the same for pecuniary gain; (3) murder
41 committed by one who has previously been convicted of intentional
42 murder or of murder committed in the course of commission of a
43 felony; (4) murder committed by one who was, at the time of
44 commission of the murder, under sentence of life imprisonment; (5)
45 murder by a kidnapper of a kidnapped person during the course of the
46 kidnapping or before such person is able to return or be returned to
47 safety; [(6) the illegal sale, for economic gain, of cocaine, heroin or

48 methadone to a person who dies as a direct result of the use by him of
49 such cocaine, heroin or methadone; (7)] (6) murder committed in the
50 course of the commission of sexual assault in the first degree; ~~[(8)]~~ (7)
51 murder of two or more persons at the same time or in the course of a
52 single transaction; or ~~[(9)]~~ (8) murder of a person under sixteen years of
53 age.

54 Sec. 3. (a) There is established a Commission on the Death Penalty
55 to study the imposition of the death penalty in this state.

56 (b) The commission shall be comprised of nine members appointed
57 as follows: The Governor shall appoint two members, the Chief Justice
58 shall appoint one member and the president pro tempore of the Senate,
59 the speaker of the House of Representatives, the majority leader of the
60 Senate, the majority leader of the House of Representatives, the
61 minority leader of the Senate and the minority leader of the House of
62 Representatives shall each appoint one member. Any vacancy on the
63 commission shall be filled by the appointing authority having the
64 power to make the original appointment. The Governor shall appoint a
65 chairperson from among the membership.

66 (c) The study shall include, but not be limited to:

67 (1) An examination of whether the administration of the death
68 penalty in this state comports with constitutional principles and
69 requirements of fairness, justice, equality and due process;

70 (2) An examination and comparison of the financial costs to the state
71 of imposing a death sentence and of imposing a sentence to life
72 imprisonment without the possibility of release;

73 (3) An examination of whether there is any disparity in the decision
74 to charge, prosecute and sentence a person for a capital felony based
75 on the race, ethnicity, gender, religion, sexual orientation, age or
76 socioeconomic status of the defendant or the victim;

77 (4) An examination of whether there is any disparity in the decision

78 to charge, prosecute and sentence a person for a capital felony based
79 on the judicial district in which the offense occurred;

80 (5) An examination of the training and experience of prosecuting
81 officials and defense counsel involved in capital cases at the trial and
82 appellate and post-conviction levels;

83 (6) An examination of the process for appellate and post-conviction
84 review of death sentences;

85 (7) An examination of the delay in attaining appellate and post-
86 conviction review of death sentences, the delay between imposition of
87 the death sentence and the actual execution of such sentence, and the
88 reasons for such delays;

89 (8) An examination of procedures for the granting of a reprieve, stay
90 of execution or commutation from the death penalty;

91 (9) An examination of the extent to which the Governor is
92 authorized to grant a reprieve or stay of execution from the death
93 penalty and whether the Governor should be granted that authority;

94 (10) An examination of safeguards that are currently in place or that
95 should be put in place to ensure that innocent persons are not
96 executed;

97 (11) An examination of the extent to which the victim impact
98 statement authorized by section 53a-46d of the general statutes affects
99 the sentence imposed upon a defendant convicted of a capital felony;

100 (12) A recommendation regarding the financial resources required
101 by the Judicial Branch, Division of Criminal Justice, Division of Public
102 Defender Services, Department of Correction and Board of Pardons to
103 ensure that there is no unnecessary delay in the prosecution, defense
104 and appeal of capital cases;

105 (13) An examination and review of any studies by other states and
106 the federal government on the administration of the death penalty; and

107 (14) An examination of the emotional and financial effects that the
108 delay between the imposition of the death sentence and the actual
109 execution of such sentence has on the family of a murder victim.

110 (d) Not later than January 8, 2003, the commission shall report its
111 findings and recommendations, including any recommendations for
112 legislation and appropriations, to the General Assembly in accordance
113 with the provisions of section 11-4a of the general statutes.

114 Sec. 4. This act shall take effect July 1, 2001."